HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VII Rule 32 (2) (b)

Description of the case.

W.P. No. 3610 of 2001 (S/S) Magan Singh & another Vs. State of U.P. & Others.

Approved for reporting.	
Not approved for reporting	
11 1	Date of decision 29.06.2004
	Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 3610 of 2001 (S/S)

Magan Singh & another			Petitioners
V	ersus		
State of U.P. & others		•••••	Respondents
Mr. P.C. Jhingan, learned Advocate for Learned Standing Counsel for the State.	-	ers.	
Writ Petition No	o. 5777 of	2001 (S/S)	
Leela Dhar	**	Pe	etitioner
State of Uttar Pradesh	Vs	Respondents	
Writ Petition	No. 2886	of 2001 (S/S	<u>S)</u>
Swaroop Chand Ramloa	Vs	Pe	etitioner
State of U. P and others	VS	Res	pondents
Writ Petition No. 1795 of 2001 (S/S)			
Mangal Singh	V.	Pe	etitioner
State of U. P. and others	Vs	Res	pondents
Writ Petition	No. 6287	of 2001 (S/S	<u>S)</u>
Raghubeer Singh Bist	Vs	Petit	ioner
State of U.P. and others		Responde	nts
Writ Petition No.6157 of 2001 (S/S)			
Murti	Vs	Pe	titioner
State of U.P. and others		Responde	nts
Writ Petition No. 1701 of 2001 (S/S)			
Sabla Ram and anothers	Vs	Pe	
State of U.P. and others		Responde	nts
Writ Petition No.3613 of 2001 (S/S)			
Devendra Kumar Mishra and anothersPetitioner Vs			
State of U.P. and others		Responde	nts

Writ Petition No. 6002 of 2001 (S/S)

Khushi Ram	Petitioner
	Vs
State of U.P. and others	Respondents
W:4 D.4:4:	- N. (220 -£2001 (C/C)
	n No. 6338 of 2001 (S/S)
Bachan Singh	Petitioner
Con CIID 1 1	Vs
State of U.P. and others	±
	on No. 345 of 2001 (S/S)
Khushi Ram	Petitioner
	Vs
State of U.P. and others	-
· · · · · · · · · · · · · · · · · · ·	on No. 384 of 2001 (S/S)
Bhagwan Singh	Petitioner
	Vs
State of U.P. and others	Respondents
Writ Petition	n No. 3611 of 2001 (S/S)
Surat Singh	Petitioner
	Vs
State of U.P. and others	Respondents
Writ Petition	n No. 2487 of 2001 (S/S)
Rajendra Singh Pawar	Petitioner
, c	Vs
State of U.P. & others	Respondents
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Writ Petition	n No. 1946 of 2001 (S/S)
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Writ Petition Chandan Singh Vist	n No. 1946 of 2001 (S/S)
-	n No. 1946 of 2001 (S/S)Petitioner Vs
Chandan Singh Vist State of U.P. and others	n No. 1946 of 2001 (S/S)Petitioner Vs
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Chandan Singh Vist State of U.P. and others Writ Petitic	No. 1946 of 2001 (S/S) Petitioner Vs Respondents on No.508 of 2001 (S/S) Petitioner Vs
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Writ Petition No. 5547 of 2001 (S/S)		
Girish Chandra KalaPetition Vs	er	
State of Uttaranchal and OthersRespond Writ Petition No. 6001 of 2001 (S/S)	ents	
Buddi SinghPetition Vs	er	
State of U.P. and othersRespond Writ Petition No. 377 of 2001 (S/S)	ents	
Jai PrakashPetition	er	
VS		
State of Uttar Pradesh		
And othersRespond	ents	
Writ Petition No. 5917 of 2001 (S/S)		
Mahaveer Singh Negi Petit	ioner	
Vs		
State of U.P. and others Responden	ts	
Writ Petition No. 6006 of 2001 (S/S)		
Suresh ChandraPetitioner Vs		
State of Uttaranchal		
And othersRespondents		
mid othersRespondents		
Writ Petition No. 507 of 2001 (S/S)		
Manohar Lal Petitioner		
Vs		
State of U.P. and others Responden	ts	
Writ Petition No. 391 of 2001 (S/S)		
Ramesh Petitioner		
Vs	4.0	
State of U.P. and others Responden Writ Petition No. 3993 of 2001 (S/S)	ts	
Awatar Singh Petitioner		
Vs		
State of U.P. and others Responden	ts	
Writ Petition No. 6004 of 2001 (S/S)		
Shiv Prasad Petitioner		
Vs		
State of U.P. and others Responden	ts	
Writ Petition No. 392 of 2001 (S/S)		
Puran Singh Petitioner		
Vs		
State of U.P. and others Responden Writ Potition No. 328 of 2001 (S/S)	ts	
Suraj Lal Writ Petition No. 338 of 2001 (S/S) Petitioner		
Suraj Lal Petitioner Vs		
State of U.P. and others Responden	ts	

Writ Petition No. 2241 of 2001 (S/S)				
Siyaram		•••••	Petiti	oner
	Vs			
State of U.P. and others			-	ondents
Writ Petition	<u>1 No. 2077</u>	of 20		
Anil Kumar Pawar	T 7		•••••	Petitioner
G. CHD 1.1	Vs		D	1 ,
State of U.P. and others	No. 2100			ondents
Writ Petition	<u>1 NO. 2190</u>		Petiti	
Roshan Das	Vs	•••••	Penn	oner
State of U.P. and others	V 5		Resno	ondents
Writ Petition	No 5518	 of 20		
Dariya	1110. 3310		Petition Petition	
Duriya	Vs	•••••	T CCICI	
State of U.P. and others	, 2		Respo	ondents
Writ Petition	n No. 387	of 200		
Gendan Lal Kandwal			Petiti	
	Vs			
State of U.P. and others			Respo	ondents
Writ Petition	n No. 741	of 200	<u>2 (S/B</u>	3)
Bachan Singh				Petitioner
	Vs			
State of U.P. and others			• • • • •	Respondents
Writ Petitio	on No. 95 (of 200		
Surat Singh			•••••	Petitioner
a	Vs			
State of Uttaranchal				D 1 .
And others	N 1220	6.20		Respondents
Writ Petition	1 No. 1329	of 20		
Dayal Singh	Vs		•••••	Petitioner
State of Uttaranchal	VS			Dognandanta
Writ Petition	No 1260	of 20	 02 (S/I	Respondents
Vijay Pal Singh	1 1 10. 1 207	01 20		Petitioner
Vijay i ai Siligii	Vs		•••••	1 ctitioner
State of Uttaranchal & other				Respondents
Writ Petition		of 200		1
Dara				Petitioner
	Vs			
State of Others	• • • • •	Respo	ondent	S
Writ Petition No. 596 of 2003 (S/S)				
Indra Singh				Petitioner
	Vs			
State of U.P. and others			• • • • •	Respondents
Writ Petition	No. 1637	of 20		
Rama Nand Chamoli			•••••	Petitioner
a	Vs			_
State of Uttaranchal & other	rs		• • • • •	Respondents

Writ Petition	No. 240 of 2004 (S/S	<u>)</u>
Munna Sing Goasin	•••••	Petitioner
V	$V_{\mathbf{S}}$	
State of Uttaranchal & others		Respondents
		-
Writ Petition	No. 9 T-A of 2000	
Kishan Singh	•••••	Petitioner
V	$V_{\mathbf{S}}$	
State of U.P. and others		Respondents
Writ Petition N	No. 3607 of 2001 (S/S	<u>S)</u>
Ram Bharosey Dhobhal	•••••	Petitioner
V	$V_{\mathbf{S}}$	
State of U.P. and others	••••	Respondents
	No. 733 of 2002 (S/B	
Rakesh Kandwal		Petitioner
·	$V_{\mathbf{S}}$	
State of Uttaranchal & others	••••	Respondents
·	No. 911 of 2002 (S/B	
Bhajan Singh		Petitioner
V	$V_{\mathbf{S}}$	
State of Uttaranchal & others	••••	Respondents
Writ Petition N	No. 3450 of 2001 (S/S	<u>S)</u>
Dil Bahadur		Petitioner
V	$V_{\mathbf{S}}$	
State of Uttaranchal & others		Respondents
Writ Petition 1	No. 2732of 2001 (S/S	<u>S)</u>
Jeet Singh		Petitioner
V	$V_{\mathbf{S}}$	
State of U.P. and others		Respondents
Writ Petition I	No. 1724of 2001 (S/S	<u>S)</u>
Karigaru	•••••	Petitioner
V	$V_{\mathbf{S}}$	
State of U.P. and others	••••	Respondents
Writ Petition No. 3602of 2001 (S/S)		
Vijay Ram Joshi	•••••	Petitioner
V	$V_{\mathbf{S}}$	
State of U.P. and others	••••	Respondents
Writ Petition No. 349 of 2001 (S/S)		
Bhagwan Singh	•••••	Petitioner
V	$V_{\mathbf{S}}$	
State of U.P. and others	••••	Respondents
Writ Petition No. 900 of 2003 (S/S)		
Harak Bahadur	•••••	Petitioner
V	$V_{\mathbf{S}}$	
State of Uttaranchal & others	••••	Respondents

Rajendra Yadav Vs	Petitioner	
State of U.P. and others	Respondents	
Writ Petition No. 50	82 of 2001 (S/S)	
Kirtimani	Petitioner	
V_{S}		
State of U.P. and others	Respondents	
Writ Petition No. 60	003of 2001 (S/S)	
Lal Bahadur & others	Petitioner	
V_{S}		
State of U.P. and others	Respondents	
Writ Petition No. 50	081of 2001 (S/S)	
Bhumi Singh	Petitioner	
Vs		
State of U.P. and others	Respondents	
Writ Petition No. 3212 of 2001 (S/S)		
Rajan Singh Pundeer	Petitioner	
V_{S}		
State of Uttaranchal & others	Respondents	
Writ Petition No. 3554 of 2001 (S/S)		
Pitri Prasad	Petitioner	
V_{S}		
State of U.P. and others	Respondents	
Writ Petition No. 106 of 2003 (S/B)		
Balam Singh	Petitioner	
Vs		
State of U.P. and others	Respondents	

Dated: 29/06/2004

Hon'ble Rajesh Tandon, J.

This bunch of writ petitions rasises common question of law and fact, therefore, they are being heard and disposed of together by this common judgment. For the sake of convenience, we are mentioning the facts in writ petition No. 3610 of 2001 (S/S).

By the present writ petition, the petitioners have prayed for a writ of mandamus directing the respondents to treat the petitioners to be a regular employee of Class IV in the services of the State Government from the date of their initial appointment. A further prayer has been made for a writ of mandamus to command the respondents to make the payment of difference of back wages to the petitioners.

Brief facts giving rise to the present writ petition are that the petitioners have been working in the Forest Department as Chowkidar since 1.2.1989. According to the petitioners, the nature of duties of the petitioners is the same and similar to that the regularly appointed employees of their category in the Forest Department of U.P. Govt. and there is no difference either in the nature of duties or in the quantum of work. Therefore, it is stated by the petitioners that the doctrine of 'Equal pay of Equal work' is fully attracted to the case of the petitioners and they are entitled to at least minimum of the pay scale of their post, which are being paid to their counterparts in the Forest Department of the State Government. It is further stated by the petitioners that they are fully entitled to be regularized in service on the Class III/IV post in the Forest Department of the Government of U.P.

Petitioners have referred the judgment in writ petition No. 32992 of 1995 and others, wherein, Hon'ble Mr. Justice S.R. Singh has directed the respondents to pay wages equivalent to the minimum pay in the scale of pay admissible to the regularly appointed employees of their category in the Department.

A counter affidavit has been filed on behalf of State of U.P., in which it has been stated that in the same and similar facts and circumstances the Bench consisting of Hon'ble Chief Justice and Hon'ble Mr. Justice R.A.Sharma, have delivered a judgment dated December 10, 1997 in Special Appeal No. 653 of 1995 State of U.P. Vs Putti Lal along with bunch of hundreds of others cases. The Hon'ble Court has finally disposed of all the cases of the same and similar nature with a direction to the State to appoint a committee consisting of Secretaries of Finance & Forest Department and Legal Remembrancer or their nominees, within a month of production of certified copy of the judgment before the Secretary, Forest Department, U.P. Government.

Learned counsel for the petitioners has are referred the judgment of the Apex Court in the case of State of U.P. Vs Putti Lal reported in 2002D(1) E.L.C. 524 (S.C). It was also a case of daily wagers of Forest Department. The Apex Court has held as under:

"So far as State of Uttaranchal is concerned, a scheme for regularisation of daily workers has been produced before us which prima facie does not appear to objectionable excepting the provisions regarding qualification for regularisation. Be it stated that the qualification essential for being regularized would be the qualification as was relevant on the date of particular employee was taken in as a daily wager and not the qualification, which is being fixed under the Scheme. The fact that the employees have been allowed to continue for so many years indicates the existence or the necessity for having such posts. But still it would not be open for the court to indicate as to how many posts would be created for the absorption of these daily wage workers. Needless to mention that the appropriate authority will consider the case of these daily wagers sympathetically who have discharged the duties for all these years to the satisfaction of their authority concerned. So far as the salary is concerned as we have stated in the case of State of Uttar Pradesh, a daily wager in the State of Uttaranchal would also be entitled to the minimum of the pay scale as is available to his counter parts to in the Government until his services are regularised and he is given regular scale of pay."

After the judgment of the Apex Court, Uttaranchal Government has framed Recruitment Rules of 2003 in accordance with the directions of the Apex Court known as Regularisation (On Group 'D' Posts) of Daily Wagers Appointment Rules, 2003. The criteria for regularisation has been mentioned under Rule 4(1), which reads as under:

- "(1) Any person who:
- a. Was directly appointed on daily wage basis on a Group 'D' post in the Forest Department under Government Service before June 29, 1991 and is continuing in service as such on the date of commencement of these rules; and
- b. Possessed requisite qualifications prescribed for regular appointment for that post at the time of such appointment on daily wage basis under the relevant service rules,

shall be considered for regular appointment in permanent or temporary vacancy, as may be available in the Forest Department in Group 'D' post, on the date of commencement of these rules on the basis of his record and suitability before any regular appointment is made in such vacancy in accordance with the relevant service rules or orders."

The Division Bench of this court in a bunch of writ petitions [283 (S/B) of 2002 and others] has passed the following order on 15-5-2002. It reads as under:-

"All the aforementioned writ petitioners involve common question of law and in these similar relief of regularization in the forest department has been claimed. These writ petitions are, therefore, taken up together and disposed of by a common judgment.

Heard learned counsel for the petitioners and learned C.S.C.

The petitioners claim themselves to be the daily wage employees in the forest department and covered by the decision given by the Hon'ble Supreme Court in Civil Appeal No. 3634 of 1998 state of U.P. and others Vs. Putti Lal. Learned counsel for the petitioners and the learned C.S.C. agree that direction may be given to the respondents to consider the case of these petitioners in the light of the said judgment of the apex court and those of the petitioners who are covered by the said decision of the Hon'ble Supreme Court be regularized and minimum of pay of also paid to them until their services are regularized. Let the necessary exercise be done within a period of six weeks."

In the light of the aforesaid facts, the respondents are directed to consider the regularisation of the petitioners in accordance with the Judgment of Apex Court in the case of Putti Lal (Supra) as well as in accordance with the recruitment Rules mentioned above.

In view of the facts and circumstances mentioned above, the petitioners shall be at liberty to move fresh representation within three weeks after obtaining certified copy of the order. The

respondents are directed to consider the representations of the petitioners for regularisation in accordance with the qualification, other eligibility criteria and in accordance with the recruitment rules, within a period of six weeks after filing the representation.

With the aforesaid observations, the writ petitions are allowed. No order as to costs.

(Rajesh Tandon, J.)

Dt.29.6.2004

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